

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

BRIAN HUTCHINS

§

VS.

§

CIVIL ACTION NO. 9:22cv111

STATE OF TEXAS, ET AL.

§

MEMORANDUM ORDER PARTIALLY ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Brian Hutchins, an inmate at the Polunsky Unit, proceeding *pro se*, brought this civil rights suit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed without prejudice as repetitious of another pending lawsuit. The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence.


Plaintiff filed a response in which he objects to the magistrate judge's report and recommendation. Ordinarily this would require a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). However, plaintiff states he intended to file the separate actions as one lawsuit initially in order to save court costs. Plaintiff agrees with the dismissal of the action and requests that the court file the lawsuits as one lawsuit. Therefore, plaintiff's response is interpreted as a motion to voluntarily dismiss the action.

Plaintiff is entitled to dismiss this action pursuant to Rule 41(a) because the defendants have filed neither an answer nor a motion for summary judgment. *See* FED. R. CIV. P. 41(a)(1)(i). Therefore, the report will be adopted to the extent it recommends dismissal. The dismissal of this action will be without prejudice.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED** to the extent it recommended dismissal. The Clerk of Court is **DIRECTED** to copy this memorandum and plaintiff's complaint filed in the above-styled action (ECF No. 1) and file the copied documents in plaintiff's other pending lawsuit, styled *Hutchins v. TDCJ Polunsky Unit*, No. 9:22cv110 (E.D. Tex 2022). Any additional facts plaintiff desires to bring to the court's attention about his claims should be brought in Civil Action No. 9:22cv110. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this the **21** day of **September, 2022**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge